

TOWN OF GHENT
ZONING BOARD OF APPEALS

General Requirements for Applications to the Zoning Board of Appeals.

NOTE: Applications will be taken by the Zoning Code Enforcement Officer (ZEO). To be included on the ZBA meeting agenda, **the application must be received by the Town no later than the Thursday prior to the meeting.** If portions of the application (i.e. maps or site plans) are larger than 8 ½ by 11 inches, additional copies may be needed. Meetings are held on the second Wednesday of each month.

Any questions contact: Walt Simonsmeier, ZEO, email: simonsmeier@townofghent.org
 Telephone: 518-392-4644
 Lewis Streeeter, ZBA Chairperson, email: lewis.streeeter@townofghent.org
 Telephone: 518-392-7676

Please include the following for Area Variance, Use Variance, Interpretation or Appeal applications:

_____ Completed application form; Specify type of application: _____

_____ Decision of ZEO. A letter signed by the ZEO or a description and signature on the application

_____ Proof of ownership of property or authorization to act on behalf of owner

_____ A site sketch, site plan or site survey map, drawn to scale showing the following:
 Boundary lines and dimensions
 Existing and/or proposed structures, including dimensions
 Location and dimensions of other relevant existing or proposed site features (i.e. driveways, wells, septic tank/leach field locations)
 Setbacks of all existing or proposed structures and relevant site features
 Any additional information requested by ZEO or helpful for application review

_____ A description showing full details of the request if not already included on the application

_____ A check made payable to the Town of Ghent in the amount of:
 Use Variance: \$300.00
 Area Variance: \$200.00
 Interpretation:
 Appeal:
 (Applicant is responsible for all costs, including engineering and legal fees if required)

_____ Full name, email address, mailing address and telephone number of applicant or his/her agent

_____ For an "Unlisted Action", an Environmental Assessment Form (SEQR short form)

Code of the Town of Ghent

190-58 Variances

A. The Board of Appeals shall have the power in passing on appeals as provided by the Town Law or as otherwise provided for herein or by any general or local law, rule or regulation, including the power to grant use variances and/or area variances in accordance with the provisions thereof and as set forth herein.

B. All applications for a variance shall include a map showing the existing property and all improvements thereon, and showing the proposed site plan. The Board of Appeals may require a formal survey map where such map will help to resolve the issues before the Board.

C. Guiding principles:

(1) Every decision by the Board of Appeals granting a variance shall clearly set forth the nature and extent of such variance.

(2) Every variance granted by the Board of Appeals may be made subject to such conditions and safeguards as the Board shall deem to be applicable to the particular case. Violations of such conditions or safeguards that are a part of the Board's decision shall be deemed a violation of this chapter punishable under the provisions of Article XI.

(3) Any variance granted by the Board of Appeals pursuant to the provisions of this section shall be construed to be a nonconforming use.

D. General standards for use variances.

(1) No use variance shall be granted by the Board of Appeals without a showing by the applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

(b) That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.

(c) That the requested use variance, if granted, will not alter the essential character of the neighborhood.

(d) That the alleged hardship has not been self-created.

(2) In addition, the Board of Appeals, in granting a use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

E. General standards for area variances.

(1) The Zoning Board of Appeals, in considering whether or not to grant an area variance, shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the

detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

(a) Whether any undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

(b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

(c) Whether the requested area variance is substantial.

(d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

(2) The Board of Appeals in granting of area variances shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

F. The Board of Appeals in the granting of both use variances and area variances shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such condition shall be consistent with the spirit and intent of the Zoning Chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

G. Specific types of variances. In the instances of the following types of variances, the Board of Appeals is hereby specifically empowered to grant the variance pursuant to the guiding principles and the general standards stated in Article IX and to the following provisions:

(1) With respect to lots lying across district boundary lines: to grant a permit, in appropriate cases, where the lot of the appellant, as such lot existed on the effective date of this chapter, lies across the boundary of two districts, for the extension into the more restrictive district of a lawful conforming use permitted in the less restrictive district, but for a distance not exceeding 50 feet measured at right angles to such district boundary line.

(2) With respect to nonconforming uses, buildings and lots:

(a) To grant a permit for the enlargement or extension of a nonconforming use or building on the lot or land occupied by such use or building on the effective date of this chapter, provided that such enlargement or extension shall not exceed 50% of the existing capacity on the effective date of this chapter.

(b) To grant a certificate of occupancy for a change in a nonconforming use, provided that:

[1] The Board of Appeals shall have made a determination that such change will be beneficial to the general neighborhood.

[2] Such change be made subject to such reasonable conditions and safeguards as the Board of Appeals may stipulate.

[3] There has been site plan review and approval by the Planning Board.